

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RAYMOND E. PEYTON,

Plaintiff,

v.

B. CATES,

Defendant.

Case No. 1:21-cv-00740-DAD-EPG (PC)

ORDER DENYING PLAINTIFF'S MOTION
FOR DEFAULT JUDGMENT AND REQUEST
FOR PRODUCTION OF DOCUMENTS

(ECF No. 8)

Raymond Peyton ("Plaintiff") is a state prisoner proceeding *pro se* in this civil rights action filed pursuant to 42 U.S.C. § 1983.

On August 2, 2021, Plaintiff filed a motion for default judgment. (ECF No. 8). Plaintiff alleges that he filed an amended complaint on June 16, 2021. Plaintiff moves for default judgment because neither this Court nor Defendant has responded to his First Amended Complaint.¹

Plaintiff's motion will be denied. To begin, the Court notes that it did not receive an amended complaint from Plaintiff, and Plaintiff did not attach a proof of service showing that he

¹ In the alternative, Plaintiff appears to ask for production of documents. However, discovery has not yet opened in this case and Plaintiff has not provided any explanation as to why he needs early discovery. Accordingly, Plaintiff's requests for production of documents are DENIED.

1 served the amended complaint.²

2 Additionally, Plaintiff has not asked the Clerk of Court to issue a default for any
3 defendant, and there is no evidence that any defendant has defaulted. The only defendant who
4 has appeared through an attorney (defendant Cates) has “thirty (30) days from the date of the
5 screening order to file a responsive pleading to any Complaint that passes the Court’s screening.”
6 (ECF No. 3, p. 1). As no claims have been allowed to proceed past screening, defendant Cates
7 has not defaulted. And, there is no evidence that any other defendant has been served.

8 Accordingly, IT IS ORDERED THAT Plaintiff’s motion for default judgment is
9 DENIED.

10 IT IS SO ORDERED.

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12 Dated: August 4, 2021

13 /s/ Eric P. Gray
14 UNITED STATES MAGISTRATE JUDGE
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27 ² Plaintiff should refile the amended complaint if he wants it to be considered by the Court. If he does, the
28 Court will vacate the findings and recommendations issued on July 30, 2021 (ECF No. 7), and screen Plaintiff’s
amended complaint.